

EXHIBIT 25

Proceedings
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
FRANKLIN BUONO,
Plaintiff,
Civil Action No.
-against- 7:17-cv-05915-NSR-LMS

POSEIDON AIR SYSTEMS, VICTORY AUTO
STORE, INC., VICTORY AUTO STORES, INC.
d/b/a POSEIDON AIR SYSTEMS, WORTHINGTON
INDUSTRIES, INC., and TYCO FIRE
PRODUCTS LP,

Defendants.

-----x

TYCO FIRE PRODUCTS LP,

Third-Party Plaintiff,
-against-
OPRANDY'S FIRE & SAFETY INC.,
Third-Party Defendant.

-----x

September 18, 2019

2:29 p.m.

Videotaped 30(b)(6)

Deposition of OPRANDY'S FIRE & SAFETY
INC. by PATRICIA HAWKINS-SCOTT, held at
the offices of Wilson Elser Moskowitz
Edelman and Dicker LLP, 1133 Westchester
Avenue, White Plains, New York,
pursuant to Court Order, before Barbara
Driscoll, a Notary Public of the State
of New York.

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Proceedings

A P P E A R A N C E S:

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Oprandy's Fire & Safety Inc.

45 Broadway, 21st Floor

New York, New York 10006

BY: TARA FAPPIANO, ESQ.

Also Present:

DAVID ROTHSTEIN, Videographer

Job No. CS3521616

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Proceedings

STIPULATIONS

IT IS HEREBY STIPULATED AND
AGREED by and among counsel for the
respective parties hereto, that the
sealing and certification of the
within deposition shall be and the
same are hereby waived;

IT IS FURTHER STIPULATED AND
AGREED all objections except as to
the form of the question, shall be
reserved to the time of the trial;

IT IS FURTHER STIPULATED AND
AGREED that the within deposition
may be signed before any notary
public with the same force and
effect as if signed and sworn to
before the Court.

1 P. HAWKINS-SCOTT

2 THE VIDEOGRAPHER: Good

3 afternoon. We are on the record at
4 2:27 p.m. on September 18, 2019.

5 Please note that the
6 microphones are sensitive and may
7 pick up whispering, private
8 conversations and cellular
9 interference.

10 Please turn off all cell
11 phones or place them away from the
12 microphones as they can interfere
13 with the deposition audio.

14 Audio and video recording
15 will continue to take place unless
16 all parties agree to go off the
17 record.

18 This is media unit number one
19 of the video recorded deposition of
20 Patricia Hawkins-Scott taken by
21 counsel for the defendant in the
22 matter of Franklin Buono versus
23 Poseidon Air Systems, et al., that
24 was filed in the United States
25 District Court for the Southern

1 P. HAWKINS-SCOTT

2 District of New York, Case Number
3 7:17-CV-05915-NSR-LMS.

4 This deposition is being held
5 at Wilson Elser Moskowitz Edelman
6 and Dicker, LLP, located at 1133
7 Westchester Avenue, White Plains,
8 New York.

9 My name is David Rothstein,
10 from the firm of Veritext Corporate
11 Services, and I am the
12 videographer. The court reporter
13 is Barbara Driscoll, from the firm
14 of Veritext Corporate Services. I
15 am not related to any party in this
16 action, nor am I financially
17 interested in the outcome.

18 Counsel and all present in
19 the room will now state their
20 appearances and affiliations for
21 the record. If there are any
22 objections to the proceeding,
23 please state them at the time of
24 your appearance, beginning with the
25 noticing attorney.

1 P. HAWKINS-SCOTT

2 MS. BALTZELL: Sarah E. Lynn
3 Baltzell with Shook Hardy & Bacon,
4 counsel for Tyco Fire Products, the
5 defendant and third-party
6 plaintiff.

7 MR. ACARD: Brian Acard with
8 the firm of Finkelstein & Partners,
9 for plaintiff, Franklin Buono.

10 MS. FAPPIANO: Tara Fappiano
11 from Haworth Barber & Gerstman, LLC
12 for third-party plaintiff,
13 Oprandy's Fire & Safety Inc.

14 I want to make a statement
15 for the record and to make this
16 clear, we have accommodated
17 counsel's request to split these
18 depositions into two different
19 transcripts and to do them
20 separately.

21 However, I will note that it
22 is now 2:30 in the afternoon and we
23 have been here since 10:00 a.m.
24 with extensive testimony from
25 Ms. Scott already relating to many,

1 P. HAWKINS-SCOTT

2 many documents that have been
3 produced in the context of this
4 litigation.

5 To the extent that counsel
6 intends to ask the same questions
7 or duplicative questions, relating
8 to the same topics, once again,
9 there will be an objection to that,
10 and I will stop this deposition.

11 To the extent that there are
12 items in the 30(b) notice that have
13 not yet been covered, we will
14 certainly cooperate with that
15 questioning and allow those
16 questions to be answered.

17 THE VIDEOGRAPHER: Will the
18 court reporter please swear in the
19 witness.

20 * * *

21 P A T R I C I A H A W K I N S - S C O T T,
22 having been first duly sworn by
23 the Notary Public, was examined
24 and testified as follows:
25

1 P. HAWKINS-SCOTT

2 EXAMINATION

3 BY MS. BALTZELL:

4 Q. Good afternoon. It is my
5 understanding that you are here this
6 afternoon in response to a 30(b)6
7 notice for deposition that was served
8 on Oprandy's; is that correct?

9 A. Yes.

10 Q. Do you understand that when
11 you give your testimony this afternoon
12 in this deposition that you're
13 testifying not on behalf of you
14 personally, but on behalf of Oprandy's
15 as a company and a party?

16 A. Yes.

17 Q. So to the extent that I use
18 the word you, I am really not meaning
19 you as an individual, but more
20 Oprandy's.

21 Does that make sense?

22 A. Yes.

23 Q. So any testimony that you
24 provide this afternoon is to be the
25 full basis of knowledge and information

1 P. HAWKINS-SCOTT

2 that Oprandy's as a company has, not
3 just you as a person.

4 Do you understand that?

5 A. Yes.

6 MS. BALTZELL: We will mark
7 the 30(b) notice as Oprandy's
8 Exhibit 1.

9 (Whereupon, Oprandy's
10 Exhibit 1, 30(b) notice was hereby
11 marked for identification, as of
12 this date.)

13 Q. Please take a look at the
14 30(b) notice deposition notice,
15 including the topics for discussion
16 today and let me know if you have seen
17 this document.

18 A. I haven't seen this, but I
19 have discussed this with our attorneys.

20 Q. I don't need to know about
21 anything that you talked about with
22 your attorney.

23 There are several topics for
24 deposition listed here on the notice.
25 If I were to walk through and read off

1 P. HAWKINS-SCOTT
2 each topic and ask you the question,
3 are you prepared to give testimony on
4 that topic today on behalf of
5 Oprandy's, would your answer be yes to
6 each one?

7 A. Yes.

8 Q. We can go through each one
9 individually if you want, but as a
10 whole, would you consider yourself to
11 be the person at Oprandy's most
12 knowledgeable about all of these
13 topics?

14 MS. FAPPIANO: Note my
15 objection to the form of that.

16 THE WITNESS: I can answer?

17 MS. FAPPIANO: Yes.

18 A. Yes, I would say I would be.

19 Q. What did you do to prepare
20 for your deposition today to provide
21 testimony on behalf of Oprandy's?

22 MS. FAPPIANO: Outside of
23 conversations with counsel, of
24 course.

25 MS. BALTZELL: Correct.

1 P. HAWKINS-SCOTT

2 A. Nothing, other than to gather
3 my notebook and my other -- other
4 documents to come here today.

5 Q. Other than gathering your
6 notes and the documents that you have
7 in front of you, am I correct, that you
8 did absolutely nothing other than that,
9 to get ready for your deposition today
10 as a corporate representative?

11 MS. FAPPIANO: Outside of
12 conversations with counsel.

13 THE WITNESS: Exactly. I
14 spoke with counsel last week. I
15 didn't have to prep anything else
16 for today.

17 Q. So am I correct that you
18 didn't speak with any of the other
19 employees of Oprandy's to get ready for
20 your deposition today as a corporate
21 representative?

22 A. Absolutely correct, I did
23 not.

24 Q. Did you review any manuals
25 with respect to either fire suppression

1 P. HAWKINS-SCOTT

2 equipment, the Poseidon compressor, any
3 manuals at all, to get ready for your
4 deposition today?

5 A. Not at all.

6 MS. FAPPIANO: Objection.

7 That assumes that those exist and
8 that they are in her possession.

9 Q. Does Oprandy's have manuals
10 for some of the products that it has
11 there at the facility?

12 MS. FAPPIANO: For what
13 products, the products that are
14 part of this action or something
15 else?

16 Q. What manuals -- let me ask
17 this. Topic 20, is among other things
18 manuals in Oprandy's possession
19 regarding the Kitchen Knight 1 or 2
20 systems.

21 Do you know if Oprandy's has
22 Kitchen Knight manuals?

23 A. I honestly would say I don't
24 know.

25 Q. On topic 20, the topic that

1 P. HAWKINS-SCOTT
2 you're supposed to testify about, with
3 respect to topic 20 is the Kitchen
4 Knight manuals that Oprandy's has in
5 its possession.

6 Is it your testimony today
7 that you are prepared or are not
8 prepared to talk about that topic?

9 A. No, I am not prepared to talk
10 about that topic.

11 Q. Then let's go through and see
12 --

13 MS. FAPPIANO: Objection to
14 the form of the question.

15 Q. Let's go through and see
16 which topics you think you're prepared
17 to talk about today.

18 Topic 1, documents produced
19 by Oprandy's in response to request for
20 production of documents.

21 So that is documents that
22 Oprandy's has given to all of the
23 parties in the litigation, and they
24 have those little Oprandy's, those kind
25 of Bates number on the bottom

1 P. HAWKINS-SCOTT

2 right-hand corner.

3 Are you prepared to talk
4 about the documents produced by
5 Oprandy's in the litigation today?

6 MS. FAPPIANO: As noted at
7 the beginning of this deposition
8 this witness already provided
9 several hours of testimony on those
10 documents.

11 Q. Go ahead and answer the
12 question.

13 A. Well, I did answer all the
14 questions I could about this this
15 morning. I will answer whatever I can.

16 Q. Topic 2 is the location,
17 storage and handling of evidence
18 related to the incident at Oprandy's.

19 Do you see that?

20 A. Yes.

21 Q. Are you knowledgeable about
22 the location, storage and handling of
23 those items identified by OSHA that
24 would be kept as evidence with respect
25 to the loss?

1 P. HAWKINS-SCOTT

2 A. You would be talking about
3 the tank?

4 Q. The tank, and I also believe
5 there are several other items.

6 A. All of that was -- they
7 subpoenaed all of those items. OSHA
8 took them. My husband actually had to
9 hand deliver that to Albany, and then
10 recently, what went to Boston, the
11 gauges and regulators.

12 Q. After the accident happened,
13 did OSHA come that day to the facility?

14 A. Absolutely did.

15 Q. Did OSHA instruct Oprandy's
16 to keep or preserve any items that were
17 at Oprandy's that day?

18 A. Yes. They told us to take
19 the tank and bag it and put it in a
20 safe place.

21 Q. Did Oprandy's do that?

22 A. We absolutely did.

23 Q. Other than the tank -- and by
24 tank, am I correct, you mean the --

25 A. The cylinder.

1 P. HAWKINS-SCOTT

2 Q. -- the cylinder that was
3 being filled, the test tank that was
4 being filled, on the date of the
5 accident?

6 A. Yes.

7 Q. Other than the cylinder
8 itself, were there any items that OSHA
9 asked Oprandy's to keep and preserve?

10 A. No, I don't think there was
11 anything else.

12 Q. After the incident, what, if
13 anything, did Oprandy's do with the
14 cylinders that were part of the
15 Poseidon cascade system?

16 A. Everything was kept in its
17 place.

18 Q. At the time of the incident,
19 where were the cylinders and the
20 Poseidon cascade system?

21 A. In that room.

22 Q. Where in the room?

23 A. If you -- you could come in a
24 door right here or you could come in a
25 door right there, it was set in that

1 P. HAWKINS-SCOTT

2 corner. The cylinders were in the back
3 of it and the machine was in the front
4 of it and it was a wall on this side
5 and that side.

6 Q. If I were to walk into
7 Oprandy's today, are the cylinders for
8 the cascade system still in that exact
9 location untouched?

10 A. No, they are not.

11 Q. Who moved them and when?

12 A. After the accident that
13 afternoon, the room was completely
14 sealed off by the DKI. They came and
15 put plastic with a little zipper. We
16 weren't allowed in that room because it
17 was so contaminated.

18 During that cleanout, which I
19 am not sure of the period of time, that
20 was removed and cleaned. Every day
21 they did a little more. They did take
22 the tanks out and cleaned them, and
23 they put them in our other warehouse,
24 which is like the next room. That is
25 where they were kept.

1 P. HAWKINS-SCOTT

2 Q. When you say take the tanks
3 and clean them, are you referring to
4 the tanks that were on the Poseidon
5 cascade system?

6 A. They were big yellow
7 cylinders, you saw the pictures. Yes,
8 they had to clean all of them.

9 Q. If we were to look at the
10 cascade tanks today, do you know if
11 they would still have the same amount
12 of air in them today that they did at
13 the time of the incident?

14 A. They have never been touched
15 since that day, that accident.

16 Q. So they weren't emptied and
17 cleaned those tanks?

18 A. No, they didn't empty
19 anything inside. They just did all the
20 exterior.

21 Q. Do you know whether all of
22 the tanks are partially full or whether
23 any of the tanks in the cascade system
24 are currently empty?

25 A. No, I wouldn't know that.

1 P. HAWKINS-SCOTT

2 Q. Do you know if anybody at
3 Oprandy's would have that information?

4 A. My husband would know what
5 was in them, if they are full or empty.
6 We never used them again. We never
7 took any of that and opened them.

8 Q. At the time of the accident,
9 do you know whether one or multiple of
10 the tanks was empty on the day of the
11 accident that were in the cascade
12 system?

13 A. I wouldn't know that for
14 sure, no.

15 Q. Do you know if that is
16 something that your husband, Mr. Scott,
17 would know?

18 A. He might know that.

19 Q. Did you ask him before coming
20 to your deposition today for any
21 information about the cascade system?

22 A. No.

23 Q. I went a little out of order,
24 so we will back up now.

25 Getting ready for your

1 P. HAWKINS-SCOTT

2 deposition today, did you speak with
3 your husband about any of the
4 deposition topics and how to prepare to
5 give testimony on these topics?

6 A. No. All he says is, his
7 story has never changed. We stick by
8 the same thing that has happened to us
9 throughout this ordeal.

10 Q. So other than that, did you
11 have any conversations with your
12 husband about the topics on the
13 deposition notice to get ready to
14 provide testimony as a corporate
15 representative?

16 A. No, I didn't. I didn't have
17 every one of these questions in front
18 of me as we were driving here to talk
19 to him about it. So the answer would
20 be no.

21 Q. Were you provided a copy of
22 these topics prior to today?

23 A. No, I didn't have the
24 physical copy in my hand, but I did
25 speak to counsel about the certain

1 P. HAWKINS-SCOTT

2 things that we were looking for.

3 Q. Again, I don't get to know
4 what you guys actually talked about,
5 but were you aware of the subject
6 matter of these 30 topics before today
7 so that you could prepare for your
8 deposition?

9 MS. FAPPIANO: I believe
10 she's answered that at this point.
11 She had said she had a meeting with
12 counsel, and that is privileged.

13 MS. BALTZELL: Whether or not
14 she was, yes or no, aware of what
15 the topics would be, I don't
16 believe is privileged.

17 MS. FAPPIANO: She answered
18 it.

19 Q. Were you aware of what the
20 topics for your deposition would be
21 today?

22 A. Well, not fully to all this
23 detail but basically, you know, going
24 over my book and all the documentation
25 and the facts that I have, not to

1 P. HAWKINS-SCOTT
2 exactly all of these details. We did
3 -- counsel did tell me some of the
4 things --

5 MS. FAPPIANO: Strike that
6 portion from the record when she is
7 referring to counsel.

8 Again, she testified she met
9 with counsel. She is prepared to
10 testify. Can we please move on to
11 the substance of your notice.

12 Q. Did you speak with any other
13 employees of Oprandy's to prepare for
14 your testimony today?

15 MS. FAPPIANO: Asked and
16 answered.

17 Q. Go ahead.

18 A. No, I didn't speak to anybody
19 else.

20 Q. Speaking of Oprandy's as a
21 company, who owns Oprandy's?

22 A. My husband is the sole owner
23 of Oprandy's.

24 Q. Who is your husband?

25 A. Brian E. Scott.

1 P. HAWKINS-SCOTT

2 Q. Do you have any ownership
3 interest in Oprandy's?

4 A. I do not.

5 Q. Are you an employee of
6 Oprandy's?

7 A. I am.

8 Q. What is your title?

9 A. Office manager.

10 Q. What are your job duties at
11 Oprandy's?

12 A. I do the payroll, write the
13 paychecks. I do the billing, oversee
14 the office in general, our inspection
15 sheets, handle all the insurance. Just
16 the general office duties.

17 Q. Do you have any duties with
18 respect to filling fire extinguishers
19 or test tanks?

20 A. Absolutely not, no.

21 Q. Do you have any personal
22 knowledge about the filling of test
23 tanks for fire extinguishers?

24 A. I have seen it done, but I
25 personally wouldn't know how to attempt

1 P. HAWKINS-SCOTT

2 it.

3 Q. If I were to ask you
4 questions about how to fill an
5 extinguisher or a test tank, are those
6 questions that you can answer or are
7 those things you don't have any
8 knowledge of?

9 A. First of all, they are two
10 different items. A fire extinguisher
11 is filled with ABC powder, class D, D
12 power, purple K. They are all
13 different types that they use to fill
14 fire extinguishers.

15 The cylinder is filled with
16 air that is completely two different
17 jobs.

18 Q. Do you have knowledge on the
19 process for filling a cylinder with
20 compressed air?

21 A. No.

22 Q. Do you have -- if I were to
23 ask you questions on what manuals
24 Oprandy's may have had with respect to
25 either the tanks that Oprandy's filled

1 P. HAWKINS-SCOTT

2 or the air systems that they used to
3 fill the tanks, do you have any
4 information as to whether Oprandy's had
5 manuals for those things?

6 MS. FAPPIANO: Objection to
7 the form of that.

8 You can answer it, if you
9 understand it.

10 A. No, I wouldn't know about the
11 different types of manuals that would
12 -- that are there or would be there.

13 Q. If I were to ask you
14 questions along the lines of did the
15 Poseidon cascade system come with a
16 manual, is that something you would
17 know or not know?

18 A. I think that this is the
19 mysterious book that they keep talking
20 about that they are looking for. I
21 think that is a manual on the cascade
22 system which was always kept in this
23 bottom drawer at our office.

24 The day of the accident that
25 was out and OSHA wanted to look at

1 P. HAWKINS-SCOTT

2 that. On that day, please remember
3 there were at least ten different forms
4 of BCI, OSHA was there, just so many
5 different companies.

6 We believe OSHA took that
7 manual?

8 Q. Do you recall sending OSHA a
9 copy of the manual?

10 A. How could we send a copy of
11 it?

12 Q. So is it Oprandy's testimony
13 that at least at one point in time
14 Oprandy's did have a manual for the
15 Poseidon compressor system?

16 A. I do believe there was a
17 manual on that.

18 Q. Was there a manual for the
19 compressor and the cascade system or
20 was it one manual that would go for the
21 compressor and the cascade system?

22 A. I don't know it. I never
23 read it. I have seen -- I knew it was
24 out that day and I know at different
25 times that my husband and Christopher

1 P. HAWKINS-SCOTT

2 were looking at that manual, especially
3 when we first moved to that facility,
4 when we built our new location.

5 Q. Does Oprandy's as a company
6 have an understanding of what was in
7 that manual, the Poseidon manual?

8 A. My husband would know it by
9 heart, yes.

10 Q. Do you know it by heart as
11 well?

12 A. No, I do not.

13 Q. Are you able to give any
14 testimony about what was in that
15 Poseidon manual?

16 A. No.

17 Q. If I wanted to talk to
18 someone about what was in the Poseidon
19 manual, who would I need to speak with
20 to do that?

21 A. Well, you could ask my
22 husband, but I believe OSHA had, was
23 able to -- they said they were able to
24 obtain a part, but I also believe you
25 can get it online.

1 P. HAWKINS-SCOTT

2 Q. So for the deposition topic
3 having to do with the contents of the
4 Poseidon manual, did you do anything to
5 prepare to provide testimony on that
6 topic today?

7 A. No.

8 Q. Am I correct that you're not
9 prepared to give testimony on that
10 topic today, but that someone with
11 Oprandy's could provide that testimony;
12 it is just not you?

13 A. Well, I believe my husband
14 gave that testimony already, all about
15 that -- the compressor there.

16 MS. BALTZELL: Read that
17 back.

18 (Record read.)

19 A. It is not me. But I believe
20 he gave that already in that deposition
21 up in Newburgh, in his deposition he
22 covered all about that machine.

23 Q. My question is just simply --

24 MS. FAPPIANO: It has been
25 answered --

1 P. HAWKINS-SCOTT

2 MS. BALTZELL: No --

3 MS. FAPPIANO: Counsel she
4 answered it twice. Can we please
5 move on.

6 Q. One of the topics for
7 testimony today by a corporate
8 representative is the content of that
9 manual.

10 Is that testimony you can
11 provide today on behalf of the company?

12 A. I don't get the question.

13 THE WITNESS: Do you want to
14 read it back?

15 MS. BALTZELL: Sure. Read it
16 back.

17 (Record read.)

18 A. I cannot provide testimony on
19 what is in that manual.

20 MS. FAPPIANO: By counsel,
21 this testimony has already been
22 provided by the sole owner of the
23 company over several hours at a
24 deposition in May of 2018.

25 Q. One of the topics for today's

1 P. HAWKINS-SCOTT

2 -- one of the topics for today's
3 deposition to be given by the corporate
4 representative of Oprandy's is related
5 to labels on the Poseidon cascade
6 system and compressor.

7 Do you have any information
8 tan knowledge on the labels on the
9 Poseidon cascade system and compressor?

10 A. No, I don't but there were
11 pictures taken of it. All the labels
12 are in the photographs.

13 Q. But as far as testimony
14 today, can you testify about the labels
15 that are on the Poseidon cascade system
16 and compressor?

17 A. No, I can't.

18 Q. Do you think that there is
19 someone at Oprandy's that could provide
20 that testimony?

21 A. My husband could.

22 MS. FAPPIANO: Again, by
23 counsel, he already has.

24 MS. BALTZELL: I will go
25 ahead and mark it now in case we

1 P. HAWKINS-SCOTT

2 need it.

3 MS. FAPPIANO: What do you
4 need?

5 MS. BALTZELL: The court
6 transcript.

7 MS. FAPPIANO: If you have a
8 problem with it, I suggest that we
9 deal with in the court on Monday,
10 okay, but this witness is here and
11 she is prepared to testify.

12 Why don't you ask her
13 questions about the things she
14 knows.

15 You know from having read the
16 transcript of Mr. Scott yourself
17 that he is the sole owner of the
18 company. He testified without
19 counsel over many hours. And you
20 have, your counsel had the
21 opportunity to ask him every single
22 topic not only in this notice but
23 several hundred others, and you did
24 not.

25 That was the objection to him

1 P. HAWKINS-SCOTT
2 coming back for another deposition
3 with which the court agreed.

4 So ask this witness the
5 topics that she does have knowledge
6 about. Also, stop presuming that
7 certain things exist, and
8 intimating that the fact that she
9 doesn't know them is somehow her
10 fault, when it is, in fact, your
11 questioning that is the problem.

12 MS. BALTZELL: We will go
13 through the topics and see if you
14 have information on them, all
15 right, and we will find the court's
16 transcript and we will get it on
17 the record but I will let it speak
18 for itself. I won't presume to
19 paraphrase the court on what the
20 court has ordered.

21 Q. Topic 28 --

22 A. Yes.

23 Q. Topic 28, to paraphrase,
24 really, it is testimony about what came
25 with the Poseidon cascade system and

1 P. HAWKINS-SCOTT

2 the compressor when it was purchased.

3 What documentation may have come with
4 the cascade system or the compressor.

5 On behalf of Oprandy's, do
6 you have information on the documents
7 that came with the Poseidon system and
8 compressor when Oprandy's purchased
9 those items?

10 A. No, I don't have information.

11 Q. Can you provide testimony on
12 topic 28 today or is that something
13 that you just don't have information
14 on?

15 A. I don't have information on
16 that.

17 Q. Is there someone that you
18 think with Oprandy's could provide
19 testimony on topic 28 and does have
20 information?

21 A. Yes, my husband and he
22 already had given that in his
23 deposition, on May of 2018.

24 Q. Topic 27 is alterations or
25 changes to the Poseidon cascade system.

1 P. HAWKINS-SCOTT

2 So questions about whether
3 from the time the system was purchased,
4 I believe it was purchased used from a
5 fire department; does this sound right?

6 A. That is correct.

7 Q. So from the time the Poseidon
8 cascade system was purchased from the
9 fire department, through the time of
10 the incident, were there any changes or
11 alterations that would have been made
12 to the cascade system?

13 A. Not to my knowledge, no.

14 Q. When you say not to my
15 knowledge, are you saying you know for
16 certain that no changes or alterations
17 were made to the cascade system or that
18 you just don't know whether any were
19 made?

20 A. I never heard that any
21 alterations were ever made to that
22 system.

23 Q. So it is Oprandy's testimony
24 that Oprandy's did not make any
25 alterations or changes to the Poseidon

1 P. HAWKINS-SCOTT

2 cascade system during that time period?

3 A. That's right.

4 Q. Topic 26 is purchasing and
5 servicing, inspection or repair of the
6 Poseidon cascade system and the
7 regulator that was used on the system.

8 Is that a topic you have
9 information about?

10 A. I do know my husband did have
11 it serviced at different times.

12 Q. What did the servicing
13 encompass?

14 A. I don't know. I never saw
15 the man do it.

16 Q. Do you know if your husband
17 would be able to tell us what that
18 servicing encompassed?

19 A. And he covered that as well
20 in his deposition. I was present.

21 Q. The deposition speaks for
22 itself. I don't know that he did
23 testify --

24 MS. FAPPIANO: That is the
25 response to your question. If you

1 P. HAWKINS-SCOTT

2 don't like the answer that is
3 really not on the witness. That is
4 the response to the question.

5 Q. Who serviced the Poseidon
6 cascade system?

7 A. I don't know his name. I
8 don't know who the company is who does
9 that.

10 Q. Would your husband know?

11 A. He would know.

12 Q. When was the Poseidon cascade
13 system serviced?

14 A. I don't know the date.

15 Q. Do you know if your husband
16 would know?

17 A. He would know.

18 Q. Regarding the purchase of the
19 Poseidon cascade system, why did
20 Oprandy's need a cascade system?

21 A. We fill scuba tanks, you
22 know, with that -- they call it a
23 self-contained breathing apparatus. We
24 do put it in those little air
25 cylinders, when he does go on to do

1 P. HAWKINS-SCOTT

2 what they call a balloon test for a new
3 fire suppression system.

4 Other than that, I don't
5 think it had much other uses really.

6 Q. What is the -- if I say fill
7 capability, does that mean anything to
8 you?

9 A. Well, you would have to put
10 the whole question out there. I don't
11 know what --

12 Q. So the cascade system, you
13 have air that will come out of the
14 cascade system and you will use that
15 air to fill another vessel, right?

16 A. Uh-hum.

17 MS. FAPPIANO: Are you asking
18 if that is correct?

19 Q. Is that right? That is your
20 understanding?

21 A. Are you familiar with
22 cascading air, what it means? You have
23 -- it doesn't have anything to do with
24 that whole compressor at all. You're
25 only drifting air down from a big

1 P. HAWKINS-SCOTT

2 cylinder via gravity to a small
3 cylinder. So there is no mechanics
4 involved. I am aware of that.

5 Q. So the tanks that are part of
6 the cascade system, do you know if they
7 have a maximum pressure rating, meaning
8 the amount of pressure that will come
9 out of them that will go into the tank
10 that's being filled?

11 A. I wouldn't have that
12 information, no.

13 Q. Do you know if anybody at
14 Oprandy's would have that information?

15 A. My husband would, and he also
16 testified all of that to OSHA as well
17 as, I believe, in that deposition.

18 Q. But that is not something
19 that you can give us testimony on --

20 A. I don't --

21 Q. -- on behalf of the company
22 today?

23 A. I don't have that
24 information.

25 Q. Do you know whether or not a

1 P. HAWKINS-SCOTT

2 regulator was being used at the time of
3 the incident?

4 A. I personally don't know, but
5 through all of the cases and all these
6 depositions, I do know that they were
7 looking for the regulators and that
8 went to Boston as well. So I know a
9 regulator was involved.

10 Q. When you say I know a
11 regulator was involved, do you know
12 which regulator was involved or just
13 that a regulator was involved?

14 A. Well, I wouldn't know. I
15 mean once that accident happened, we
16 were not -- I wasn't allowed in this
17 room. I don't know what regulator was
18 used, what you would be talking about,
19 I don't know.

20 Q. Does Oprandy's provide any
21 training to its employees on use of a
22 regulator when filling the cascade
23 system or when filling a vessel from
24 the cascade system?

25 A. Yes, there was training for

1 P. HAWKINS-SCOTT

2 that.

3 Q. Tell me about that training;
4 what is the instruction that is given
5 with respect to the use of a regulator?

6 A. It was only my husband at
7 first who would be filling those tanks.
8 When Chris came on board, he was the
9 one filling those tanks. He also
10 operates the tow truck. He is very
11 familiar with filling those cylinders
12 with air to take to a site if he had
13 to.

14 Personally I don't know what
15 the steps would be. I never really saw
16 it done. I was not ever present
17 watching what they did.

18 Q. So if I were to ask you
19 whether or not you're familiar with the
20 steps needed to fill a tank using the
21 cascade system, am I correct that you
22 don't have any information on how that
23 is done?

24 A. No, I really don't have
25 information on that.

1 P. HAWKINS-SCOTT

2 Q. What about specificity as to
3 how -- as to whether or not Oprandy's
4 trained Mr. Foust on the steps to fill
5 a tank from the cascade system; do you
6 know whether or not that is something
7 that he was specifically provided
8 training on?

9 A. Absolutely he was trained on
10 that.

11 Q. Tell me what that training
12 entailed.

13 A. Well, how to fill those
14 tanks. I mean I don't know what it
15 means. I never saw it done as I said
16 before, but it would be -- he would
17 train him how to cascade that air, how
18 to -- what to watch for, regulators, et
19 cetera, whatever was needed.

20 Q. So if one of the --

21 A. And he had done that many
22 times before.

23 Q. But specifically as far as
24 what Oprandy's trained him on, the
25 process that Oprandy's imparted to

1 P. HAWKINS-SCOTT

2 Mr. Foust, do you have any information
3 on what that specific training was as
4 far as the process or procedure to fill
5 a tank?

6 A. No, I wouldn't have any exact
7 information on that.

8 Q. Who would have that
9 information?

10 A. My husband would.

11 Q. Topic 25 is the steps used by
12 Oprandy's owners and employees to fill
13 tanks in balloon tests and pressurized
14 air, other than what you just said
15 generally, is that a topic you can
16 provide testimony on?

17 A. No, but I just told you my
18 husband would have that information and
19 he knows the steps.

20 Q. As the corporate
21 representative deposed here today to
22 provide testimony on topic 25, is there
23 anything else that you can tell us on
24 behalf of Oprandy's with respect to
25 that topic?

1 P. HAWKINS-SCOTT

2 MS. FAPPIANO: Objection.

3 A. No, nothing I can add.

4 Q. Same question with respect to
5 recharging agent tanks to be used in
6 fire suppression systems; is that
7 something that you're familiar with and
8 can provide testimony on?

9 A. No, I couldn't provide
10 information on that.

11 Q. Topic 24 is training or
12 warnings given by Oprandy's, and I will
13 paraphrase to employees, specific to
14 whether or not Oprandy's trains or
15 provides information to its employees
16 on dangers associated with filling
17 tanks.

18 Do you have any information
19 on that topic?

20 A. No. But my husband trained
21 Christopher. Frank wasn't trained on
22 putting in any gases or anything like
23 that. Mr. Foust was trained by my
24 husband.

25 Q. But as far as the specific

1 P. HAWKINS-SCOTT

2 trainings or warnings that Oprandy's
3 may have given to Mr. Foust regarding
4 the dangers associated with filling
5 tanks or extinguishers, do you have any
6 specificities on that information?

7 A. No, I wouldn't have, no.

8 Q. Have you ever used the
9 Poseidon system?

10 A. No, I have not.

11 Q. Have you ever filled an agent
12 tank?

13 A. No.

14 Q. Have you ever filled a test
15 tank?

16 A. No.

17 Q. Have you yourself ever looked
18 at a manual for an agent tank?

19 A. No.

20 Q. Any agent tank at all?

21 A. Well, you would have to
22 describe agent. What are you talking
23 about, agent? I don't know.

24 Q. How about a fire
25 extinguisher, have you ever seen a

1 P. HAWKINS-SCOTT

2 manual for a fire extinguisher?

3 MS. FAPPIANO: Objection, as
4 being outside the scope of this
5 litigation.

6 THE WITNESS: You want me to
7 answer that?

8 A. Honestly there is no manual
9 for that. There are no manuals exactly
10 on how to fill a fire extinguisher that
11 I have seen or know of.

12 Q. Do you know what a Kitchen
13 Knight system is?

14 A. My husband does fire
15 suppression systems for restaurants, so
16 I have heard that terminology. I am
17 aware, I have seen him service the
18 systems. He builds them. I am not
19 really that familiar with the exact
20 wording or knowledge about it.

21 Q. Have you ever seen a balloon
22 test done to a fire suppression system?

23 A. I have seen it done on an
24 iPad. One of the inspectors he does
25 like to take pictures of it and he has

1 P. HAWKINS-SCOTT

2 sent them to us.

3 Q. Do you, as Oprandy's, have an
4 understanding of when and why a balloon
5 test would be needed?

6 A. Different municipalities have
7 different rules. Some want it on a
8 brand new system. Some want it on a
9 system that hasn't been operational for
10 a number of years. Some could be
11 three, some could be five. They come
12 and go.

13 If you change the system out
14 to a new one, sometimes they like to
15 see a balloon test done to that, but we
16 are hearing down the pike but they may
17 do away with that.

18 MS. FAPPIANO: Move to strike
19 the portions that is not
20 responsive.

21 Q. Is it Oprandy's understanding
22 that balloon tests are something that
23 may be required by an authority having
24 jurisdiction, like a fire department?

25 MS. FAPPIANO: Note my

1 P. HAWKINS-SCOTT

2 objection.

3 You can answer.

4 A. They are required by
5 municipalities, not a fire department.
6 A building inspector.

7 Q. Does Oprandy's know whether
8 or not we will use the Kitchen Knight
9 system, the manufacturer of the Kitchen
10 Knight system requires a balloon test?

11 A. I don't have knowledge about
12 that.

13 Q. Have you ever seen a Kitchen
14 Knight manual?

15 A. To tell you the truth, the
16 word "Kitchen Knight" is not something
17 we use often. I don't know anything
18 really anything about a Kitchen Knight.

19 Q. Would you know whether or not
20 Oprandy's has a Kitchen Knight manual?

21 A. I don't know.

22 MS. FAPPIANO: Objection,
23 based upon that last response.

24 Q. If I wanted to find out if
25 Oprandy's had a Kitchen Knight manual,

1 P. HAWKINS-SCOTT

2 who would I need to ask to find that
3 out?

4 A. You can ask my husband.

5 MS. FAPPIANO: By counsel,
6 you already have.

7 Q. Do you know what a
8 hydrostatic test is?

9 A. Yes, I know the term.

10 Q. Do you agree with me that the
11 tank at issue in this accident was a
12 test tank?

13 Is that your understanding of
14 what the tank was involved in the
15 accident?

16 A. Describe what you mean by
17 test tank.

18 Q. What is your understanding of
19 what the tank was that was involved in
20 the accident? By you I mean Oprandy's.

21 A. That is a cylinder that is
22 used only to be filled with air, taken
23 to a new restaurant where the new
24 system would be going to be put online.
25 They will put -- force the air through

1 P. HAWKINS-SCOTT

2 the lines and blow up those balloons.

3 That is my knowledge of those small
4 tanks or cylinders.

5 Q. Does Oprandy's have any
6 knowledge on how often those kinds of
7 tanks need to be hydrostatically
8 tested?

9 A. My husband would have that
10 information, I don't.

11 Q. If I were to ask you, as the
12 representative from Oprandy's, how
13 often or, if ever, the subject tank had
14 been hydrostatically tested, is that
15 something that you can provide
16 testimony on today?

17 A. No, I wouldn't have that
18 information.

19 Q. If I ask you the same
20 questions about the valve or the gauge
21 or the regulators, would you have any
22 information on whether or how often
23 those have been serviced?

24 A. No, I wouldn't --

25 MS. FAPPIANO: Serviced?

1 P. HAWKINS-SCOTT

2 MS. BALTZELL: Yes.

3 A. No, I wouldn't have that
4 information.

5 Q. Do you think your husband
6 would have that information?

7 A. He might.

8 Q. Do you, as Oprandy's, have
9 any testimony on whether or not there
10 were any markings on the subject tank?

11 A. Well, to be honest, this is
12 the story that we keep hearing over and
13 over about markings. I don't know
14 about any markings on that tank.

15 Q. If you are Oprandy's today,
16 is it your testimony today that
17 Oprandy's isn't aware of whether there
18 were any markings on the tank, or is it
19 just that you personally aren't aware
20 of whether there were any markings on
21 the tank?

22 A. Me personally.

23 Q. Is there someone within
24 Oprandy's who would have knowledge of
25 that information?

1 P. HAWKINS-SCOTT

2 A. My husband would know.

3 MS. FAPPIANO: And he has
4 testified to it and you have
5 photographs.

6 Q. Topic 21 relates to all of
7 the materials that were obtained from
8 Howell's Fire Department. I will ask
9 this -- and I will call it a test tank,
10 but it is the tank that is involved in
11 this accident.

12 So if I say test tank, are
13 you tracking me?

14 A. Yes.

15 Q. Was the test tank also
16 purchased from Howell's Fire Department
17 when the compressor and Poseidon system
18 was bought?

19 A. It was not.

20 Q. When was the test tank
21 purchased?

22 A. I believe in 20 -- I would
23 say in '14 we acquired another business
24 that was going out of business and we
25 got a lot of his equipment and that

1 P. HAWKINS-SCOTT

2 tank came from him.

3 Q. Was the tank new or used when
4 it came from him?

5 A. Used.

6 Q. Do you know if when you
7 purchased the tank, it came with any
8 records of the history of the tank,
9 whether there had been alterations to
10 the tank, whether it had been
11 hydrostatic tested.

12 Do you know whether or not
13 records like that came with the tank?

14 A. No.

15 MS. FAPPIANO: Note my
16 objection. You're presuming such
17 things exist, when your own client
18 said they do not.

19 MS. BALTZELL: Let me clarify
20 because of the objection.

21 Q. I am referring to, if a test
22 is hydrostatically tested, sometimes
23 the owner will keep a record of that,
24 to show that the test was tested --

25 MS. FAPPIANO: The tank was

1 P. HAWKINS-SCOTT

2 tested.

3 MS. BALTZELL: Uh-hum, the
4 tank was tested.

5 Q. Do you know whether or not
6 those kinds of records were provided to
7 you when you purchased the tank?

8 A. No, I don't know. I don't
9 have that information.

10 Q. Who would have that
11 information?

12 A. My husband would have that
13 information.

14 Q. Topic 18 is the identity of
15 Oprandy's, all Oprandy's owners and
16 employees who used the cascade system.

17 Other than Mr. Foust, do you
18 know of any of the other Oprandy's
19 employees who may have used either the
20 cascade system or the compressor?

21 A. One would be my husband Brian
22 Scott; one is my son Robert Hawkins.
23 He would have cascaded that air for
24 different reasons.

25 Q. For what reasons would he

1 P. HAWKINS-SCOTT

2 have cascaded the air?

3 A. Probably to fill a scuba
4 tank.

5 Q. Any other employees who would
6 have used the cascade system?

7 A. No.

8 Q. Just the two of them?

9 A. Just those two.

10 MS. FAPPIANO: She mentioned
11 it included three, including
12 Mr. Foust.

13 Q. Topic 17 relates to Oprandy's
14 knowledge of and familiarity with
15 safety codes.

16 Do you have any familiarity
17 with the safety codes that Oprandy's
18 may feel are applicable to them?

19 MS. FAPPIANO: Objection to
20 the form. For what? That is a
21 very broad question. In what
22 context?

23 Q. So sub-A has to do with
24 Oprandy's knowledge with NFPA 10.

25 A. I don't have knowledge of

1 P. HAWKINS-SCOTT

2 NFPA 10. They are small booklets that
3 are put out there. 10 has to do with
4 portable hand-held fire extinguishers,
5 17A is kitchen systems, and they go on
6 and on.

7 We keep those copies in our
8 shop. The men also have them in their
9 vans and it quotes different rules
10 about fire extinguishers. They
11 shouldn't be more than 75 feet apart.
12 You shouldn't have to run across the
13 doorway to grab a fire extinguisher,
14 different sizes and kinds. That is
15 basically what 10 covers.

16 Q. Do you provide a copy of NFPA
17 10 to employees such as Christopher
18 Foust?

19 A. Well, I just said they all
20 have them in their vans and there are
21 copies kept in the office.

22 We do refer back to different
23 ones when people will call and want to
24 know, what would you use on like a
25 battery -- the new electric cars, they

1 P. HAWKINS-SCOTT

2 are using that what they call AFFF,
3 which is a foam.

4 There are different little
5 informational things in those books.

6 Q. Is it Oprandy's understanding
7 that Oprandy's should comply with NFPA
8 10?

9 MS. FAPPIANO: Objection.
10 You can't -- don't answer that
11 question. That is a legal
12 conclusion.

13 MS. BALTZELL: I will ask it
14 again.

15 Q. What is Oprandy's
16 understanding or is it Oprandy's
17 understanding that Oprandy's should
18 comply with an NFPA 10?

19 A. We do. We do.

20 Q. So is it your understanding
21 that that is something that you should
22 do or you try --

23 A. We do do it.

24 MS. FAPPIANO: Note for the
25 record that NFPA 10 actually refers

1 P. HAWKINS-SCOTT

2 to fire extinguishers which is not
3 what was involved in this accident.

4 Q. Are there any other NFPA
5 standards?

6 A. As I said, there are 17 for
7 kitchen systems and then there is
8 another one that I am not that familiar
9 with. My husband knows all of them.

10 Q. I will ask you the same
11 question with respect to NFPA 17.

12 Is it Oprandy's understanding
13 that they should comply with NFPA 17?

14 A. We do comply with it.

15 Q. Are you familiar with NFPA
16 17A as well?

17 A. Yes. I believe that is what
18 kitchen and ductwork or hood work as
19 well.

20 Q. Is it your understanding that
21 Oprandy's, that Oprandy's should comply
22 with NFPA 17 and 17A?

23 A. And we do.

24 Q. Sub- B is Oprandy's knowledge
25 and familiarity with ASME boiler

1 P. HAWKINS-SCOTT

2 pressure vessel code.

3 Is Oprandy's familiar with
4 that code?

5 A. Personally myself, I don't
6 know about it.

7 Q. Do you know if others in
8 Oprandy's are familiar with it?

9 A. Probably my husband would be.

10 Q. As far as giving topic --
11 testimony today on the extent of
12 Oprandy's knowledge with respect to
13 that code, is that something that you
14 can do today --

15 MS. FAPPIANO: For boilers?

16 Is that what you're asking, for
17 boilers?

18 Q. -- the code referenced in
19 sub-B?

20 A. Boiler pressure vessel code.

21 MS. FAPPIANO: Do you know
22 what that is?

23 THE WITNESS: I don't. Is it
24 used in our type of -- I personally
25 don't know.

1 P. HAWKINS-SCOTT

2 Q. Do you know if your husband
3 would know?

4 A. He may know.

5 Q. As far as just Oprandy's
6 knowledge, generally, it sounds like
7 you don't know sitting here today
8 whether or not that is a code that
9 Oprandy's has knowledge on?

10 A. Like I said, personally I
11 don't know.

12 Q. But Oprandy's could; you just
13 don't know?

14 A. I just don't know.

15 Q. The same question with
16 subsection C, Oprandy's knowledge and
17 familiarity with the CGA handbooks
18 relating to compressed gases; are you
19 familiar with the CGA handbooks
20 relating to compressed gases?

21 A. No, I am personally not.

22 Q. Do you know if your husband
23 or someone else with Oprandy's is
24 familiar with those handbooks?

25 A. My husband may be. And I

1 P. HAWKINS-SCOTT

2 would like to point out that Oprandy's
3 is spelled wrong on here many, many
4 times and it is a legal document. It
5 shouldn't be spelled like that. It
6 really should be fixed.

7 Q. If the question is whether or
8 not you can provide testimony on behalf
9 of Oprandy's knowledge with respect to
10 the CGA handbooks on compressed gases,
11 am I correct that Oprandy's may or may
12 not have knowledge on that, but you
13 just don't know one way or another?

14 A. Personally, I don't.

15 Q. Same question with respect to
16 17D. I guess we had parsed it out
17 between agent tanks and compressed gas,
18 but my understanding as I quickly go
19 through this for D and E, your answers
20 would be the same that someone at
21 Oprandy's could have knowledge of those
22 topics, but you just don't know whether
23 or not they do?

24 A. That is correct.

25 MS. FAPPIANO: Counsel. I

1 P. HAWKINS-SCOTT
2 object to the form of the question
3 and you're testifying for the
4 witness and you're also presuming
5 with all of these questions that
6 any of this applies to what we have
7 before us.

8 There is no obligation for us
9 to producing any sort of witness to
10 speak about topics that are outside
11 the scope of this litigation.

12 MS. BALTZELL: I am not aware
13 of any objections that were filed
14 prior to today.

15 MS. FAPPIANO: That is
16 actually incorrect, but that is on
17 you, not on me.

18 Q. We have talked about your
19 notebook. Have you read the statements
20 that were provided by Mr. Foust and
21 Mr. Buono that were given to OSHA that
22 have now been typed up?

23 A. I have never seen them.

24 Q. Do you know if anybody at
25 Oprandy's has seen them?

1 P. HAWKINS-SCOTT

2 A. It would only be my husband
3 and myself. We have not seen them.

4 Q. Is it your testimony on
5 behalf of Oprandy's, that nobody at
6 Oprandy's has seen the statements
7 provided by Mr. Foust and Mr. Buono to
8 OSHA?

9 A. That is correct.

10 MS. FAPPIANO: By counsel,
11 OSHA never provided them to
12 Oprandy's?

13 THE WITNESS: That is
14 correct.

15 Q. Is it your testimony that no
16 one from Oprandy's has ever seen the
17 typed-up versions of the statements
18 provided by Mr. Foust and Mr. Buono to
19 OSHA?

20 A. We have never seen it, no.

21 Q. Topic 14 relates to the
22 employment files. We already discussed
23 those this morning, so I don't want to
24 discuss them much, other than -- let me
25 see if I can find it.

1 P. HAWKINS-SCOTT

2 MS. BALTZELL: Do you want to
3 take a break?

4 MS. FAPPIANO: No.

5 MS. BALTZELL: We're going to
6 mark this document as Oprandy's
7 Exhibit 2.

8 (Whereupon, Oprandy's Exhibit
9 2, series of documents was hereby
10 marked for identification, as of
11 this date.)

12 Q. That is a copy of the
13 documents that were provided at
14 Mr. Scott's deposition as being those
15 contained in Mr. Buono's personnel
16 file.

17 A. Uh-hum.

18 Q. Did you see in there a copy
19 of the employee handbook?

20 A. Here.

21 Q. Yes.

22 The document we just marked
23 as Oprandy's Exhibit 2 is actually
24 documents that were produced by you in
25 this litigation in response to

1 P. HAWKINS-SCOTT

2 discovery and the request was for a
3 complete copy of Mr. Buono's personnel
4 file. That is what we received in
5 response.

6 Does that look to be correct?

7 A. Yes, it does look to be
8 correct. The information, the sheet is
9 in there for his emergency numbers.
10 The handbook part is there. This is
11 more like what should have been in
12 there which, obviously, was at some
13 point.

14 Q. Do you see the employee
15 handbook in there with the signed page?

16 A. Yes, right there.

17 Q. Is there handwriting at the
18 top of that?

19 A. It has his -- it says F.
20 Buono.

21 Q. Is that your handwriting?

22 A. Yes.

23 Q. Do you know why the version
24 you brought with you today, that we
25 discussed earlier and marked as PS 3,

1 P. HAWKINS-SCOTT

2 doesn't have that handwriting at the
3 top?

4 A. This was all given the day at
5 the Finkelstein's office when took
6 apart the folders and we marked his
7 name -- they had all the papers they
8 were copying, and his name was put on
9 the top of that.

10 This appears to me to be,
11 what was his folder, given that day we
12 gave her the copies.

13 MS. FAPPIANO: Can I just
14 clarify that.

15 All those notes that are on
16 there then were written on the
17 copies that were made that day; is
18 that correct?

19 THE WITNESS: Yes. She was
20 taking them and making the copies,
21 and then we stapled them all.

22 Q. If I have the copy from that
23 deposition, do you know whether or not
24 it is going to have that handwriting on
25 the top?

1 P. HAWKINS-SCOTT

2 A. From Brian's deposition that
3 day?

4 Q. Uh-hum.

5 A. I would assume it would be.
6 We copied it right there at that
7 office.

8 Q. Topic 10 relates to the use
9 of a cage or other restraining device
10 at Oprandy's.

11 Do you know what instruction,
12 if any, was provided by Oprandy's to
13 Mr. Foust with respect to use of a cage
14 when filling cylinders?

15 A. Well, we always describe it
16 as a cage, but it really isn't a cage.
17 It is pretty thick steel. That's where
18 my husband always said that is where we
19 put the tanks when we fill any of those
20 type of cylinders, including even a
21 scuba tank.

22 Q. If I say cage, then you have
23 an understanding of what a --

24 A. Yes, I know.

25 Q. What is a safety cage then

1 P. HAWKINS-SCOTT

2 with respect to filling tanks?

3 A. It really isn't a cage, but
4 it is very round -- it would look like
5 this, an open top, open bot -- they are
6 really affixed to the front of the
7 machine. And they are big, big steel
8 and you would put an SCBA tank in there
9 to hold it, so you could fill it with
10 air. I mean you wouldn't be holding it
11 in your arm and trying to do that.

12 MS. FAPPIANO: When she was
13 describing that just now, she was
14 referring to a Poland spring water
15 bottle in terms of shape.

16 Q. You mentioned an SCBA tank,
17 when you were describing a safety cage.

18 Did Oprandy's have available
19 for use a safety cage when employees at
20 Oprandy's were filling an SCBA tank?

21 A. Yes, it was on that machine.

22 Q. What is that machine?

23 A. That compressor. It is an
24 orange or yellowish type. You would
25 have seen it in the pictures.

1 P. HAWKINS-SCOTT

2 Q. Is it Oprandy's testimony
3 that at the time of the incident there
4 was a safety cage on the compressor
5 itself that one could put an SCBA tank
6 in, when they were filling the SCBA
7 tank?

8 A. Yes.

9 MS. FAPPIANO: Asked and
10 answered.

11 Q. What about with respect to
12 testing. Was there a safety cage,
13 which you could put a test tank in,
14 when you were filling a test tank from
15 the cascade system?

16 A. Yes, it is there.

17 Q. At the time of the incident,
18 was there a safety cage provided for
19 the test tanks, that could be used when
20 filling the test tank?

21 A. Well if you look at the
22 pictures from OSHA, there is the
23 machine; there are the cages. On that
24 given day they were there.

25 Q. What training, if any, did

1 P. HAWKINS-SCOTT

2 Oprandy's provide to its employees with
3 respect to the use of the cage when
4 filling a test tank?

5 MS. FAPPIANO: Asked and
6 answered.

7 You can answer it again.

8 A. I didn't train them myself
9 but in hearing my husband talk, that is
10 what the training is, how to put it
11 into the cage, how to fill it, cages
12 regulators, whatever term he uses. He
13 would best answer that, and I believe
14 he did.

15 Q. Do you know whether a safety
16 cage was in use at the time of the
17 incident?

18 A. I would say it appears not
19 from the photographs.

20 Q. Is there a large difference
21 in size between a test tank and an SCBA
22 tank?

23 MS. FAPPIANO: Note my
24 objection.

25 You can answer.

1 P. HAWKINS-SCOTT

2 A. I don't -- I would think
3 those breathing apparatus -- well, they
4 could kind of maybe be the same
5 circumference. They could be about the
6 same.

7 Q. Is it your understanding that
8 a safety cage that could hold and be
9 effective for an SCBA tank is the same
10 size of cage that could hold and be
11 effective for a test tank?

12 A. I would say so.

13 Q. If we have seen testimony in
14 this case that Oprandy's didn't have a
15 safety cage available until after the
16 incident, would you disagree with that
17 testimony?

18 A. I would totally disagree. Go
19 to the photographs, please, that OSHA
20 took and BCI took on that day.

21 Q. I think I asked this, but I
22 don't think you actually answered it.

23 To the extent that safety
24 cages were made available for use when
25 filling a test tank, what was the

1 P. HAWKINS-SCOTT
2 specific instruction that Oprandy's
3 gave its employees with respect to the
4 safety cages?

5 MS. FAPPIANO: This has been
6 answered three times now. I think
7 we need to move on, please. She
8 won't answer it again.

9 MS. BALTZELL: I don't think
10 she has.

11 MS. FAPPIANO: She has three
12 times. Do you want me to go back
13 and have her read it back or can we
14 just move on?

15 MS. BALTZELL: Can we humor
16 me --

17 MS. FAPPIANO: No, we are not
18 humoring you.

19 MS. BALTZELL: I don't think
20 I've had a specific answer.

21 MS. FAPPIANO: It has been
22 answered three times. I have
23 objected to asked and answered
24 twice. It's been asked, it's been
25 answered, move on.

1 P. HAWKINS-SCOTT

2 They had safety cages. They
3 were instructed to use them. They
4 were instructed how and they were
5 there and available that day. All
6 of that I just heard.

7 Counsel, do you agree with
8 me, did you hear all that?

9 MR. ACARD: I heard it.

10 MS. BALTZELL: What I don't
11 think I got an answer to was what
12 the specific training looked like
13 that Christopher Foust would have
14 received with respect to the safety
15 cages.

16 MS. FAPPIANO: Would have
17 received, received? Was she there
18 when it was being done, or any of
19 that.

20 You haven't set the
21 foundation for that type of a
22 question, and that's a different
23 question.

24 THE WITNESS: That would be
25 hearsay because I don't know what

1 P. HAWKINS-SCOTT

2 my husband said: Come along here,
3 pick up a tank, put it in a cage.
4 Specifically, I can't answer to
5 what my husband said. Personally,
6 I don't know.

7 MS. BALTZELL: I will set the
8 foundation for it.

9 Q. Does Oprandy's train its
10 employees on the use of a safety cage?

11 MS. FAPPIANO: Asked and
12 answered. Asked three times;
13 answered three times. Move on.

14 Q. Go ahead.

15 A. Please look at the picture.
16 The cage is not removable. You don't
17 put it away on Tuesday and take it out
18 on Wednesday. They are soldered or,
19 however, in steel. It isn't removable.

20 So if you went in the room to
21 fill the tank, you would use the cage.
22 You didn't say, Patty, bring me a cage
23 because it isn't a cage. It is full of
24 steel. It is a steel cylinder. So if
25 he went in to fill the cylinder, you'd

1 P. HAWKINS-SCOTT

2 use it and put it into the cage.

3 MS. BALTZELL: Read back the
4 question. I am not getting an
5 answer to the question which is why
6 I am having to keep asking it.

7 MS. FAPPIANO: It has been
8 answered. Should we go back and
9 read the last five pages of
10 testimony. Go for it. Let's go.

11 Let's hear it all over again,
12 if that is what you want to do,
13 Sarah.

14 MS. BALTZELL: Read back the
15 question.

16 MS. FAPPIANO: I won't let
17 her answer it again. It's been
18 answered. I don't need to have the
19 court reporter go back and read it,
20 but I am happy to have her do that.

21 MS. BALTZELL: Please go back
22 to --

23 THE WITNESS: I hear the
24 question clearly.

25 MS. BALTZELL: Please go back

1 P. HAWKINS-SCOTT

2 and read the question.

3 (Record read.)

4 A. I said yes.

5 Q. What did that training
6 involve?

7 A. As I put it, I didn't train
8 Christopher. I can't speak for my
9 husband, who trained him.

10 Q. Did someone at Oprandy's --
11 is it Oprandy's testimony; is it your
12 testimony that someone at Oprandy's did
13 train Mr. Foust on use of a safety
14 cage?

15 A. My husband, Brian Scott,
16 trained Christopher Foust on the use of
17 the safety cage when filling an air
18 tank.

19 MS. FAPPIANO: Is that clear
20 now?

21 Q. So what is Oprandy's
22 knowledge, not just yours, but
23 Oprandy's knowledge as to what exactly
24 that training entailed?

25 A. Well, it wouldn't be my

1 P. HAWKINS-SCOTT
2 personal knowledge. I don't know that.
3 But my husband would know that.

4 MS. FAPPIANO: And he has
5 testified to it.

6 Q. So Oprandy's has information
7 on what that training would have
8 included, right?

9 MS. FAPPIANO: And he has
10 testified to it.

11 A. Yes. And my husband -- and
12 he did testify to that.

13 Q. Do you know whether Mr. Foust
14 was ever provided a copy of the
15 Poseidon documents that Oprandy's did
16 have at one time?

17 MS. FAPPIANO: Objection. I
18 don't know that we have established
19 that -- what they had and that it
20 was Poseidon documents.

21 A. My question back would be why
22 would I? He had it available at the
23 shop to be used at any time, but why
24 would he have a copy and want to take
25 it home with him? But he was always

1 P. HAWKINS-SCOTT

2 able to get the manual which was kept
3 in the office.

4 Q. Who drafted the employee
5 handbook at Oprandy's?

6 A. My husband, and I think
7 perhaps a friend who was also in that
8 business years ago, helped him put all
9 of that together.

10 Q. Did you have any involvement
11 in the drafting of the handbook?

12 A. Not a whole lot. A little
13 bit about, I think, uniforms and stuff
14 like that.

15 Q. Are you familiar enough with
16 the handbook to provide testimony on it
17 today?

18 A. I believe I could.

19 Q. Do you know whether or not
20 the handbook contains any guidance or
21 instruction on filling tanks with
22 compressed air?

23 A. No, I don't know --

24 MS. FAPPIANO: Objection.

25 A. -- off the top of my head.

1 P. HAWKINS-SCOTT

2 Dir Q. Do you know if the handbook
3 that was in effect at the time of the
4 incident is still the same handbook
5 that you have today in use?

6 MS. FAPPIANO: Objection.

7 She is not going to answer that.

8 That's a subsequent remedial
9 measure possibly, and it is outside
10 the questioning.

11 MS. BALTZELL: I do believe
12 it is a topic for the deposition.

13 MS. FAPPIANO: I have reason
14 to object and instruct her not to
15 answer.

16 What they have today is not
17 relevant to what happened prior to
18 the date of the accident.

19 Rul Q. Are you going to follow the
20 advice of your counsel and not answer
21 the question of whether or not

22 Oprandy's --

23 MS. FAPPIANO: She is not
24 answering that.

25 Q. -- has the same employee

1 P. HAWKINS-SCOTT

2 handbook today that they did at the
3 time of the accident?

4 MS. FAPPIANO: She is not
5 answering that question either.

6 Q. One of the topics, I believe,
7 I think really it is to certification
8 of Oprandy's and its employees, just
9 the kind of professional and trade
10 certifications. Is that something you
11 have information on?

12 A. Yes, I would have some
13 information on it.

14 Q. Was Christopher Foust ever
15 certified or given certification
16 training on filling fire extinguishers,
17 agent tanks?

18 A. Yes, he --

19 MS. FAPPIANO: Objection.
20 You can answer that.

21 A. Yes, he was trained by my
22 husband. There are outside companies
23 that do do this, but they do it
24 intermittently throughout the year and
25 they do fly around the country.

1 P. HAWKINS-SCOTT

2 A couple of times we were
3 going to set up for him -- he is a
4 single dad, they weren't quite in his
5 date on his calendar good, but he was
6 trained by my husband to fill them.

7 Q. I believe your husband went
8 through training and certification
9 through FPC.

10 A. Yes, that is the company,
11 which they fly around the country to
12 different states. You will see them in
13 Texas, California, and he does that
14 maybe once a year.

15 Q. Do you know, does Oprandy's
16 know, whether there are any
17 requirements that the individuals who
18 are actually servicing the tanks or
19 extinguishers have their own
20 certifications?

21 MS. FAPPIANO: Servicing
22 them?

23 MS. BALTZELL: Uh-hum.

24 MS. FAPPIANO: I am not sure
25 that we know what that means.

1 P. HAWKINS-SCOTT

2 A. Repeat that.

3 Q. If I said servicing or work
4 on, does that make sense to work on a
5 tank?

6 A. Yes.

7 Q. Does Oprandy's know whether
8 there is any requirements that
9 employees who are actually going to be
10 working on, servicing agent tanks, have
11 their own certification?

12 MS. FAPPIANO: Objection.
13 You can answer it, if you know.

14 A. I don't know offhand, but it
15 is something that we do do.

16 Q. Do you know if anyone within
17 Oprandy's would know the answer to that
18 question, whether or not the
19 individuals who service tanks need
20 certification?

21 A. Probably my husband would
22 know.

23 Q. But you don't know one way or
24 another?

25 A. Yes, I am not sure exactly.

1 P. HAWKINS-SCOTT

2 Q. The certification that
3 Mr. Scott had through FPC, do you know
4 whether that was manufacturer specific
5 or whether that was general training
6 that applied to multiple products?

7 A. I believe he trained some on
8 multiple products. My husband also
9 gets the kitchen certification from him
10 as well.

11 Q. Do you know whether or not
12 that training involves training on use
13 of a pressure regulator?

14 A. I wouldn't know the answer to
15 that.

16 Q. Who would know?

17 A. My husband would know.

18 Q. Do you know whether or not
19 that training that he goes to involves
20 training on filling tanks with
21 compressed air?

22 A. No, I couldn't be sure if he
23 includes that in that training.

24 Q. Do you know whether there are
25 any written materials, manuals,

1 P. HAWKINS-SCOTT
2 instructions, anything at all that is
3 given out at these training sessions
4 that he attends at FPC?

5 MS. FAPPIANO: Note my
6 objection to that. That presumes
7 they exist.

8 A. I haven't seen them; so I
9 wouldn't say I absolutely know that,
10 no.

11 Q. Do you know one way or
12 another, whether or not that training
13 includes a discussion of the Pyro-Chem
14 Kitchen Knight manual?

15 A. Perhaps when he does the
16 system trainings, which is on a
17 different day, he may discuss different
18 systems that are out there, there are
19 several.

20 Q. Do you know one way or
21 another whether or not that is
22 discussed at that training?

23 A. No, I have never been
24 present, so I don't really know what is
25 discussed.

1 P. HAWKINS-SCOTT

2 Q. One of the topics on the
3 corporate reps notice deals with
4 discussions with OSHA.

5 Are you familiar with
6 Oprandy's involvement with OSHA's
7 involvement with Oprandy's following
8 the incident following an
9 investigation?

10 A. I did accompany my husband to
11 Albany where we met with a woman. The
12 man who had come to us was not present
13 that day. They did discuss -- he was
14 explaining more of what the cascading
15 system was to her. She didn't
16 understand that. So you know, I had
17 some -- I was present for some of that.

18 MS. BALTZELL: We are going
19 to mark this document as Oprandy's
20 Exhibit 3.

21 (Whereupon, Oprandy's
22 Exhibit 3, letter from Oprandy's to
23 U.S. Department of Transportation
24 was hereby marked for
25 identification, as of this date.)

1 P. HAWKINS-SCOTT

2 Q. This looks to be a letter
3 from Oprandy's to someone at the U.S.
4 Department of Transportation.

5 A. Okay.

6 Q. Does this look familiar to
7 you?

8 A. Yes, I have seen this.

9 Q. Were you involved at all in
10 writing this letter?

11 A. Yes, I probably typed it for
12 my husband.

13 Q. Did you see on the second
14 page where it says, "6SOG for filling
15 air bottles"?

16 A. Yeah.

17 Q. It says there, "Enclosed
18 please find the filling procedures for
19 filling air bottles related to the
20 cascade system in Poseidon air
21 compressor, which came directly from
22 the manufacturing company."

23 Do you see that?

24 A. Yes.

25 Q. It says, "Enclosed please

1 P. HAWKINS-SCOTT

2 find."

3 Do you know if you enclosed a
4 document with this letter?

5 A. We probably did.

6 Q. Would it have been a copy or
7 the original?

8 A. Well, it could have been a
9 copy, yes.

10 Q. Do you have any recollection
11 of what was copied and attached?

12 A. No, I don't.

13 Q. Do you know if you kept a
14 copy of this letter and its attachment
15 in your records at Oprandy's?

16 A. It is probably in the DOT
17 folder.

18 Q. Is it your testimony that you
19 likely have a copy of this letter in
20 the DOT folder, and attached to that
21 letter would be the attachment that
22 went with the letter which would be, it
23 looks like, the instructions for the
24 compressor?

25 A. It may be.

1 P. HAWKINS-SCOTT

2 Q. I know we have asked for that
3 in discovery.

4 MS. FAPPIANO: Let me ask you
5 this, Patty, when you say the DOT
6 folder is that something maintained
7 by Oprandy's or is that something
8 that the DOT has?

9 THE WITNESS: No. It is
10 something we kept in the office.
11 When they paid the visit to us that
12 day, they both came with their
13 little cards and they wanted to
14 look at everything. That is why I
15 made the folder on them.

16 MS. FAPPIANO: We will go
17 back and look. We haven't found
18 anything, but we will go back and
19 look.

20 Q. What is the DOT file you just
21 referenced?

22 A. Well, it was the day that we
23 found out that we hadn't called in and
24 got a number. They said we were in
25 violation for not having a number,

1 P. HAWKINS-SCOTT

2 which we didn't know what they were
3 talking about. He gave me this number
4 to call, Patrick Durkin, and it was the
5 Coast Guard.

6 They said, what body of water
7 did you contaminate? I said, we
8 didn't. What stream? I said, we
9 didn't. What highway? We didn't. I
10 don't know why you're calling me. I
11 said because Patrick Durkin said I need
12 a number, that it's some kind of an
13 incident.

14 He said, I will give it to
15 you, but I don't know why you're making
16 this phone call. So we kept a folder
17 with Patrick's card on it and the other
18 gentleman's card and we answered
19 whatever letters they wanted and we
20 just kept that information in a
21 different folder.

22 Q. Am I correct that it is the
23 incident that is the basis of the
24 lawsuit that prompted that
25 investigation?

1 P. HAWKINS-SCOTT

2 A. Yes.

3 Q. Do you have an understanding
4 of DOT regulations and the fact that
5 the DOT regulates the transportation of
6 vessels containing pressed gas? Is
7 that something you're familiar with?

8 A. Yes, because we supply fire
9 extinguishers to trucks that all are
10 stopped by DOT officers, and they are
11 given fines because they don't have a
12 fire extinguisher. So I am familiar
13 what DOT does.

14 Q. To the best of your
15 knowledge, does DOT kind of regulate
16 your facility or keep an eye on things
17 at the facility, to the extent that
18 you're transporting vessels with
19 compressed gas on it?

20 MS. FAPPIANO: I will object
21 to the form of that question.

22 A. We don't have or need DOT
23 numbers. My husband would know exactly
24 why. It may have to do with the
25 weight.

1 P. HAWKINS-SCOTT

2 Q. Could it relate to the
3 hydrostatic testing of the vessels,
4 perhaps?

5 A. No, absolutely not. No.

6 Q. Absolutely not or you're not
7 sure?

8 A. I would say no --

9 MS. FAPPIANO: Objection.

10 She answered it.

11 Q. Let's do this. Look at
12 number 3 on the letter. I will
13 paraphrase, and you tell me if I am
14 wrong.

15 As I am reading this, your
16 DOT number relates to whether or not
17 you're allowed to hydrostatically test
18 vessels with compressed air that will
19 then be transported, is that right,
20 having read number 3?

21 MS. FAPPIANO: Note my
22 objection.

23 You can answer, if you can.

24 A. Well, no, you're on a
25 different road about hydrostatic

1 P. HAWKINS-SCOTT

2 testing of cylinders. They are not
3 done because of DOT. They are done for
4 cylinder safety. So we don't -- that
5 isn't really what DOT is involved
6 about.

7 Q. Does Oprandy's know whether
8 or not you need a DOT RIN in order to
9 do hydrostatic testing on vessels?

10 A. We used to hydrotest in
11 Florida, but we now farm it out to
12 someone else.

13 Q. The DOT number you were just
14 referring to, is that the DOT number
15 that would allow you to, as far as DOT
16 is concerned, do the hydrostatic
17 testing on the vessel?

18 A. That is correct.

19 Q. It sounds like there is a DOT
20 file that this letter, at least you
21 think could be in there, with the
22 attachment that was sent to DOT,
23 correct?

24 A. Yes, correct.

25 Q. Do you know where that file

1 P. HAWKINS-SCOTT

2 is?

3 A. It is probably at the office.

4 Q. So that is something you can
5 look for?

6 A. Yes, I will.

7 RQ MS. BALTZELL: We will
8 request that we get a copy of that
9 file.

10 MS. FAPPIANO: We looked. By
11 counsel, we have looked and we have
12 given you everything that we still
13 have.

14 I will endeavor to look again
15 in light of this testimony, but I
16 don't know that there is anything
17 else, also because your client
18 testified that there's nothing
19 else.

20 Q. Just so I am clear, if I want
21 to go find this DOT file, where do I
22 look? Where am I going to look for --

23 A. I am going to look --

24 MS. FAPPIANO: She answered
25 the question.

1 P. HAWKINS-SCOTT

2 A. -- in the cabinet, I will.

3 MS. FAPPIANO: Move on.

4 MS. BALTZELL: I will ask
5 that a copy be provided. If we
6 need testimony on it, we can
7 revisit that.

8 MS. FAPPIANO: I have to stop
9 at 5 o'clock.

10 THE VIDEOGRAPHER: The time
11 is 4:05. We are going off the
12 record. This is the end of media
13 unit number one.

14 (Recess taken.)

15 THE VIDEOGRAPHER: The time
16 is 4:17. We are back on the
17 record. This is the beginning of
18 media unit number two.

19 Q. Did you directly interact
20 with anybody from OSHA when they were
21 there at Oprandy's to do their
22 inspection after the accident?

23 A. On that day, no.

24 Q. At any time following?

25 A. No.

1 P. HAWKINS-SCOTT

2 MS. FAPPIANO: Other than
3 what she testified to.

4 Q. Was there a primary contact
5 at Oprandy's for OSHA?

6 A. Myself or my husband.

7 Q. Have you received a copy of
8 the evaluation that OSHA did as a
9 result of their investigation?

10 A. Yes, we did.

11 Q. Have you read it?

12 A. Yes. My husband knows -- he
13 read more into it than I did.

14 Q. Do you recall OSHA reaching a
15 conclusion in their evaluation as to
16 what OSHA thinks happened as to why the
17 tank ruptured?

18 A. Yes, I do.

19 Q. What do you recall that
20 conclusion to be?

21 MS. FAPPIANO: Note my
22 objection.

23 MR. ACARD: Objection.

24 A. On the back page it says
25 "over pressurization."

1 P. HAWKINS-SCOTT

2 Q. Do you have any reason to
3 disagree with that conclusion --

4 MS. FAPPIANO: Objection.

5 Q. -- given by OSHA?

6 MS. FAPPIANO: You can answer
7 it.

8 A. No, I don't object to that
9 finding.

10 Q. Do you recall reading
11 anything in the evaluation report that
12 Oprandy's does disagree with?

13 MS. FAPPIANO: Objection.

14 A. No.

15 Q. Was Oprandy's issued any
16 citations or violations by OSHA
17 following the incident?

18 MS. FAPPIANO: Objection.

19 You can answer it.

20 A. Yes, I do believe there were
21 some.

22 Q. In your own words, can you
23 describe what they were?

24 A. Honestly, I don't know them
25 all. One that sticks out in my head is

1 P. HAWKINS-SCOTT

2 we didn't have an eye wash station,
3 which Christopher was the one who put
4 that up on the wall, so I know that
5 that wasn't true.

6 No, I don't know. I didn't
7 really follow up. My husband dealt
8 more with them.

9 Q. One of the topics for the
10 deposition was the interactions with
11 OSHA as well as the citations provided
12 by OSHA.

13 As far as who was the person
14 in Oprandy's who was knowledgeable
15 about those topics would that be you or
16 your husband?

17 A. My husband.

18 MS. BALTZELL: These are a
19 few pages from the OSHA report that
20 the parties received pursuant to
21 their request from OSHA.

22 We will mark these pages as
23 Oprandy's Exhibit 4.

24 (Whereupon, Oprandy's
25 Exhibit 4, excerpted pages from

1 P. HAWKINS-SCOTT

2 OSHA report was hereby marked for
3 identification, as of this date.)

4 MS. FAPPIANO: I will make
5 one overriding objection to all
6 questions relating to this document
7 and to the conclusions of OSHA and
8 any administrative findings by this
9 agency.

10 Q. I believe you testified a
11 moment ago that between you and your
12 husband, he would have more information
13 than you would with respect to OSHA's
14 investigation and any citations by
15 OSHA; is that correct?

16 A. That is correct.

17 Q. Did you do anything to
18 prepare for your deposition today, to
19 find out what that additional
20 information that he may have that you
21 personally don't to come testify today?

22 A. No.

23 Q. This exhibit is a 17-page
24 document. It says "Citation and
25 notification of penalty." Then it

1 P. HAWKINS-SCOTT

2 lists several citations behind it.

3 Do you see that?

4 A. Yes.

5 Q. To save us some time here,
6 does this document accurately summarize
7 Oprandy's understanding of the
8 violations it received from OSHA?

9 MS. FAPPIANO: Note my
10 objection.

11 A. To the best of my knowledge,
12 I know -- I know there were some.

13 Q. Does this document appear to
14 contain the violations that Oprandy's
15 received following the accident?

16 A. Again, I know there were some
17 violations, I guess this may be some of
18 them.

19 Q. Are you able to speak to the
20 specificities of the violations that
21 were received from OSHA?

22 MS. FAPPIANO: Objection.

23 A. No, I really couldn't give a
24 really accurate account, no.

25 Q. This may or may not be what

1 P. HAWKINS-SCOTT

2 you referred to earlier. But I believe
3 you mentioned that OSHA may have taken
4 some pictures of the cascade system?

5 A. Yes.

6 Q. Do you know where you saw the
7 pictures, was it in an OSHA report?

8 A. I never saw the pictures
9 because they were beyond what my
10 husband wanted me to see, but there was
11 an investigator who came down after the
12 accident. He had a really good camera
13 with the big, big lens, so I do know he
14 took pictures of everything.

15 Q. Did you ever see the end
16 result of those photographs to actually
17 see the photographs that he took when
18 he was there or you were just present
19 when he was just taking the
20 photographs?

21 A. Well, that morning of the
22 accident, they were all in there taking
23 pictures. So I do know that.

24 Q. If I wanted to track down the
25 photographs you were mentioning

1 P. HAWKINS-SCOTT
2 earlier, the photographs that were
3 taken of the compressor, have you seen
4 the actual photographs that you're
5 referring to? I am trying to figure
6 out where I would look or if those even
7 exist.

8 A. I never saw OSHA's
9 photographs. They never showed us
10 those pictures.

11 THE WITNESS: Daniel had a
12 few pictures. I don't know where
13 we got those from.

14 MS. FAPPIANO: So this
15 happened in the course of
16 attorney-client preparation.

17 So I am going to have to stop
18 the questioning at this juncture
19 with regard to that, based upon a
20 privilege.

21 Q. I am going to show you this.
22 This is a photograph that I have from
23 OSHA of the Poseidon system.

24 I am just curious if on that
25 photo; one, that is the Poseidon

1 P. HAWKINS-SCOTT

2 system, right?

3 A. Yes.

4 Q. You referenced there was a
5 safety cage attached to the system.

6 A. They are right here and this
7 is not a good picture. Those steel
8 things are right there. That is not a
9 good photograph. They put that big
10 black thing in the middle of it.

11 Q. I am with you, but this is
12 just what we have from OSHA.

13 MS. BALTZELL: We will mark
14 this photo as Oprandy's Exhibit 5.

15 (Whereupon, Oprandy's
16 Exhibit 5, photograph was hereby
17 marked for identification, as of
18 this date.)

19 Q. I realize the photo is not
20 ideal, but just circle where on the
21 photo, if you can, where the safety
22 cages would have been.

23 MS. FAPPIANO: I will allow
24 her to do it, but it is over my
25 objection. Also, because she never

1 P. HAWKINS-SCOTT

2 saw these photos before.

3 We don't necessarily know
4 that these were the ones that OSHA
5 took, only based upon your
6 representation that she wasn't
7 physically in the room after the
8 accident, so she doesn't have
9 personal knowledge.

10 Q. Were you there when they were
11 I taking the photos you saw? You have
12 personal knowledge of an individual
13 taking the photographs?

14 A. On that day, they left a
15 state trooper with us. We weren't
16 allowed in the room once they
17 transported those two boys out.

18 I arrived later, the
19 helicopters were gone. The trooper
20 didn't allow us anywhere in either of
21 those rooms. He stayed on the premises
22 at all times.

23 Q. So OSHA may or may not have
24 taken photos of the cascade system?

25 A. Maybe they didn't.

1 P. HAWKINS-SCOTT

2 MS. FAPPIANO: She doesn't
3 have that basis of knowledge.

4 MS. BALTZELL: No, but that
5 makes sense.

6 MS. FAPPIANO: Nobody really
7 does except for the ones who took
8 it because nobody was allowed in
9 there.

10 Q. If you know in the photo --

11 MS. FAPPIANO: Let's go off
12 the record.

13 (Recess taken.)

14 THE VIDEOGRAPHER: The time
15 is 4:28, and we are going off the
16 record.

17 (Discussion off the record.)

18 THE VIDEOGRAPHER: The time
19 is 4:31, we are back on the record.

20 MS. BALTZELL: We marked
21 Oprandy's Exhibit 5.

22 (Whereupon, Oprandy's
23 Exhibit 5, photograph page taken
24 out of OSHA's report was hereby
25 marked for identification, as of

1 P. HAWKINS-SCOTT

2 this date.)

3 Q. Oprandy's Exhibit 5 is a
4 photograph page taken out of OSHA's
5 report that they issued regarding the
6 incident.

7 Do you recognize what is
8 pictured in the photo?

9 A. Yes.

10 Q. What is pictured in the
11 photo.

12 A. It is the back shop where the
13 accident occurred. That is the
14 compressor and the fire extinguishers
15 that are fallen around it, and you can
16 see the one safety cage that is on
17 right side closest to the Poseidon
18 name, is evident in this photograph.

19 Q. Is that picture an accurate
20 photograph of what Oprandy's, that area
21 of Oprandy's looked like on the day of
22 the incident from your recollection?

23 A. Yes.

24 Q. Can you just take a pen, and
25 I know the photograph is not perfect,

1 P. HAWKINS-SCOTT

2 but can you circle where on the
3 compressor that the safety cage is
4 located?

5 MS. FAPPIANO: Over my
6 objection, you can do so.

7 Please put an initial and a
8 date on there.

9 Q. Did Oprandy's ever request a
10 copy of OSHA's file from OSHA related
11 to the incident?

12 A. No, we didn't.

13 Q. Other than that kind of
14 evaluation report that you I believe
15 said you had read, have you ever seen a
16 rather large stack of papers that is
17 OSHA's complete file with respect to
18 this case?

19 A. No, we never received that.

20 Q. In preparing for your
21 deposition today, did you see any
22 deposition transcripts at all that have
23 been taken in this case?

24 A. No.

25 Q. Did you look at any documents

1 P. HAWKINS-SCOTT

2 that may have been produced by other
3 parties in this case?

4 A. No.

5 Q. Were you asked to make a
6 search for additional documents with
7 respect to your corporate
8 representative deposition?

9 MS. FAPPIANO: Objection.

10 That is privileged information.

11 Q. Did you make a search for any
12 documents in advance of your corporate
13 representative deposition?

14 A. No.

15 Q. Has there been a final
16 settlement or a resolution with OSHA
17 with respect to the violations that
18 Oprandy's received after the accident?

19 MS. FAPPIANO: Objection.

20 You can answer to the extent
21 it doesn't go into attorney-client
22 privileged information.

23 A. We pay them quarterly and we
24 are almost done.

25 MS. BALTZELL: Does anybody

1 P. HAWKINS-SCOTT

2 else have questions?

3 MR. ACARD: I have a couple
4 of quick ones.

5 EXAMINATION

6 BY MR. ACARD:

7 Q. You mentioned way back that
8 you had a manual on the premises for
9 the Poseidon system --

10 A. Yes.

11 Q. -- that Christopher could
12 refer to if he wanted to?

13 A. Yes.

14 Q. You mentioned that he
15 wouldn't bring it home?

16 A. Yes.

17 Q. You are the office manager,
18 correct?

19 A. Yes.

20 Q. Does Oprandy's keep other
21 manuals for other tanks and systems on
22 the premises as well?

23 A. I am not sure, but I know my
24 husband has some books because we have
25 Protex and Ansul systems we put in, and

1 P. HAWKINS-SCOTT

2 I think when we do the updates there
3 are some reference books they do give
4 you.

5 Q. I guess what I am asking is:
6 If they come with manuals or reference
7 books is that something that Oprandy's
8 would keep on the premises?

9 A. Yes.

10 Q. Is that something that
11 employees could retrieve if they were
12 available, if they wanted to?

13 A. Absolutely, yes.

14 Q. Does Oprandy's along the way
15 prevent employees from going to refer
16 to manuals that they actually have?

17 A. No, we would never.

18 Q. Have there been occasions
19 that you're aware of where employees
20 would ask to refer to manuals on the
21 premises?

22 A. Yes.

23 MR. ACARD: Thank you. I
24 have no other questions.

25 MS. BALTZELL: Tara, do you

1 P. HAWKINS-SCOTT

2 have any questions?

3 MS. FAPPIANO: I do not.

4 MS. BALTZELL: We will mark

5 as Oprandy's Exhibit 6, the

6 transcript of the last court

7 hearing regarding the deposition.

8 MS. FAPPIANO: I don't think

9 it is appropriate for this to be

10 marked as an exhibit as part of a

11 deposition.

12 If you have an issue with

13 this witness and the extensive

14 testimony that she has provided

15 over the course of today, then you

16 should take it up with counsel.

17 The record speaks for itself

18 and we will deal with it between

19 counsel and the court.

20 MS. BALTZELL: Let's mark it,

21 please.

22 I want to leave the

23 deposition open to the extent that

24 there were topics that we were not

25 able to get testimony on today from

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P. HAWKINS-SCOTT
a corporate representative pursuant
to our notice.

(Whereupon, Oprandy's Exhibit
6, transcript of court hearing
regarding the deposition marked for
identification, as of this date.)

MS. FAPPIANO: I am getting a
copy of that now that you have
marked it as an exhibit and you
haven't produced it.

MS. BALTZELL: No. I just
got it.

I don't have any further
questions.

MS. FAPPIANO: We are done.
Thank you.

(Continued on the following
page to accommodate the jurat.)

1 P. HAWKINS-SCOTT

2 THE VIDEOGRAPHER: We are off
3 the record at 4:39 p.m., and this
4 concludes the deposition of
5 Patricia Hawkins-Scott.

6 The total number of media
7 units used was two and will be
8 retained by Veritext Corporate
9 Services.

10 (Time noted: 4:40 p.m.)

11
12 _____
13 PATRICIA HAWKINS-SCOTT

14
15 Sworn and Subscribed

16 This____day of _____, 20 .
17

18 _____
19 Notary Public
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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, BARBARA DRISCOLL, a Shorthand
Reporter and Notary Public within and
for the State of New York, do hereby
certify:

PATRICIA HAWKINS-SCOTT, the witness
whose deposition is hereinbefore set
forth, was sworn, such deposition is a
true record of testimony given by such
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF I have set my
hand this 21st day of September of
2019.



----- I N D E X -----

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----- INFORMATION REQUESTS -----

DIRECTIONS: 78, 78

RULINGS: (None)

TO BE FURNISHED: (None)

REQUESTS: 92

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5, photograph	101
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1 Tara Fappiano, Esq.

2 tara.fappiano@hbandglaw.com

3 September 23, 2019

4 RE: Buono, Franklin v. Tyco Fire Products, Et Al.

5 9/18/2019, Patricia Scott , 30(b)(6) Oprandy's Fire (#3521616)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 erratas-cs@veritext.com

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21
22 Yours,

23 Veritext Legal Solutions
24
25

Buono, Franklin v. Tyco Fire Products, Et Al.

Patricia Scott , 30(b)(6) Oprandy's Fire (#3521616)

E R R A T A S H E E T

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REASON_____

Patricia Scott , 30(b)(6) Oprandy's Fire

Date

1 Buono, Franklin v. Tyco Fire Products, Et Al.

2 Patricia Scott , 30(b)(6) Oprandy's Fire (#3521616)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Patricia Scott , Oprandy's Fire, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10
11 _____
12 Patricia Scott Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS
15 _____ DAY OF _____, 20____.

16
17
18 _____
19 NOTARY PUBLIC
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[& - air]

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[bit - comply]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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